UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,437	08/29/2001	Shawn R. Gettemy	PALM-3678	7439

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EXAMINER
BELL, PAUL A

ART UNIT	PAPER NUMBER
2675	9

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>29 March 2004</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
     closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-32</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-8,13-20 and 25-29</u> is/are rejected.

7)☒ Claim(s) <u>9-12,21-24 and 30-32</u> is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

    1.☐ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____.

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
        application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
     Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2.   Claims 1-3, 13, 15, 25, 26, 28 , and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Helms (5,760,760).

With regard to claim 1, Helms teaches a portable computer system (figure 1) comprising: a processor coupled to a bus (figure 2, item 204a); a light sensor coupled to said bus and for providing an ambient light information signal to said processor (figure 2, item 14); a lighted display device coupled to said bus and for providing a visual display (figure 2, item 12); a display controller coupled to said bus and for controlling said visual display (figure 2, item 204); a data storage device coupled to said bus and comprising reconfigured dynamically adjustable brightness range setting data for implementing a plurality of different **stored** ranges, and wherein said processor automatically selects a stored range of said plurality of stored ranges based on said ambient light information signal from said light sensor (figure 2, item 204b and column 2, lines 12-15 and lines 35-39), **wherein each stored range of said plurality of stored ranges comprises a brightness range maximum value and a brightness range minimum value** (at least two ways to interpret this broad language, for example the inherent nature of a "range" is to have a maximum value at the high end and a minimum value at the low end of the "range" of which the reference clearly has).

With regard to claim 2, Helms teaches the portable computer system of Claim 1 further comprising an adjustment display for enabling the user to adjust a brightness setting within said selected range for said display device (figure 2, item 16).

With regard to claim 3, Helms teaches the portable computer system of Claim 1 wherein said lighted display device is transmissive (figure 2, item 12).

With regard to claim 13, Helms teaches a portable electronic device (figure 1) comprising: a processor coupled to a bus (figure 2, item 204a); a light sensor coupled to said bus and for providing ambient light information signal to said processor (figure 2, item 14); a lighted display device coupled to said bus and for providing a visual display (figure 2, item 12); a display controller and for controlling said visual display (figure 2, item 204); a data storage device coupled to said bus and comprising **a plurality of** reconfigured dynamically adjustable brightness ranges; and wherein said processor selects a brightness range of said stored brightness ranges based on preset range configuration data and said ambient light information signal from said light sensor (figure 2, item 204b and column 2, lines 12-15 and lines 35-39) **wherein each stored range of said plurality of stored ranges comprises a brightness range maximum value and a brightness range minimum value** (at least two ways to interpret this broad language, for example the inherent nature of a "range" is to have a maximum value at the high end and a minimum value at the low end of the "range" of which the reference clearly has).

With regard to claim 15, Helms teaches the portable electronic device of Claim 13 wherein said lighted display device is transmissive (figure 2, item 12).

With regard to claim 25, Helms teaches in a portable electronic device (figure 1), a method of responding to a change in ambient light conditions comprising: a) detecting said change in ambient light conditions and generating a signal in response thereto (figure 2, item 14); b) in response to said signal, a processor (figure 2, item 204a) of said portable electronic device selecting a brightness range from a plurality of stored brightness ranges based on reconfigured range information; and c) implementing said brightness range to alter the brightness of a display device (figure 2, item 12) of said portable electronic device (figure 2, item 204b and column 2, lines 12-15 and lines 35-39) **wherein each stored range of said plurality of stored ranges comprises a brightness range maximum value and a brightness range minimum value** (at least two ways to interpret this broad language, for example the inherent nature of a "range" is to have a maximum value at the high end and a minimum value at the low end of the "range" of which the reference clearly has).

With regard to claim 26 Helms teaches a method as described in Claim 25 further comprising: d) allowing a user to adjust a brightness setting within said selected brightness range; and e) altering said brightness of said display device based on said brightness setting (figure 2, item 16).

With regard to claim 28 Helms teaches a method as described in Claim 25 wherein c) comprises employing a time delay between any brightness transition of said display device (It is inherent that there is a time delay).

With regard to claim 29 Helms teaches a method as described in Claim 25

wherein a) is performed by a light sensor of said portable electronic device (figure 2,

item 14).

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as
> set forth in section 102 of this title, if the differences between the subject matter sought to be
> patented and the prior art are such that the subject matter as a whole would have been obvious
> at the time the invention was made to a person having ordinary skill in the art to which said
> subject matter pertains. Patentability shall not be negatived by the manner in which the invention
> was made.

4.   Claims 4-6 and 16-18 are rejected under 35 U.S.C. 103(a) as being
unpatentable over Helms (5,760,760).

With regard to claims 4-6 and 16-18 Helms did not give an illustration of the

portable computer system of Claim 1 wherein said lighted display device is emissive,

reflective and transflective.

However such display types are well-known alternatives to the LCD illustrated by

Helms, therefore it would have been obvious to one of ordinary skill in the art at the time

the invention was made to substitute other well-know display types for an LCD absent

unexpected results because such other simple applications of the Helms concept are

viewed as merely directed towards an "OBVIOUS INTENDED USE" of the Helms

invention where he states this in column 6, lines 29-52 to summarize, a LCD was used

to be illustrative of the concept only. It is further obvious that depending on cost and

availability of parts one would be motivated to use one or the other display type .

5.   Claims 7, 8, 14, 19, 20 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helms (5,760,760) in view of Wagner (5.933,130).

With regard to claim 7, Helms does not teach the portable computer system of Claim 2 wherein said adjustment display comprises a brightness bar with user adjustable slider.

Wagner teaches "adjustment display comprises a brightness bar with user adjustable slider" (See Wagner figure 7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the brightness bar slider as taught by Wagner in the apparatus of Helms because Wagner illustrated that it is a well-known practice in the prior art to use a brightness bar slider instead of a mechanical knob and in addition a GUI is more simple and cost effective then having a specific dedicated mechanical control.

With regard to claim 8, the combination of Helms and Wagner teaches the portable computer system of Claim 7 wherein said adjustment display comprises a plurality of selectable brightness levels (See Helms column 2, lines 35-38 also see Wagner figure 9 item 62 "SELECT RANGE").

With regard to claims 14, 19 and 20 the combination of Helms and Wagner was shown in claims 2 and 7-8 to read on the limitations claimed.

With regard to claim 27 the combination of Helms and Wagner was shown in claim 7 to read on method as described in Claim 26 wherein said d) is implemented using a graphical user interface.

Allowable Subject Matter

6.   Claims 9-12, 21-24 and 30-32 are objected to as being dependent upon a

rejected base claim, but would be allowable if rewritten in independent form including all

of the limitations of the base claim and any intervening claims.

Response to Arguments

7.   Applicant's arguments filed 29 March 2004 have been fully considered but they
are not persuasive.

The applicant argues on pages 9-14 with regard to independent claims 1, 13 and

25, and there dependent claims that Helms does not teach or suggest the limitation of

claim 1 in which the portable computer system comprises; "a data storage device.....

for implementing a plurality of different **stored** ranges, **wherein each stored range of**

said plurality of stored ranges comprises a brightness range maximum value and

a brightness range minimum values".

The examiner disagrees because the sited Helms column 2, lines 35-39 clearly

states;

"the brightness control circuitry comprises some form of artificial intelligence for

learning, a users preferred brightness level, <u>or range of brightness levels, in various</u>

ambient lighting **conditionS**"

This "OR" language makes clear that there are two possible actions or cases

for a plurality of ambient lighting conditions. The First action or case is to simply

assign a specific brightness level value to a specific ambient lighting value. The Second

action or case is to assign a range of possible brightness levels to each specific ambient

lighting value which would require a plurality of different ranges.

And also further note that Wagner also teaches the concept of case two, having

a plurality of ranges and was used in a 103 with Helms when more details were used

such as the slider bar. Also note applicant states on his page 14 "Wagner teaches a

plurality of brightness ranges". So even if one disregards the Helms evidence in

column 2, lines 35-39 a 103 rejection could have been simply made with Helms and

Wagner references together because it is obvious that multiple user's of the Helms

device would need a plurality of ranges as also clearly illustrated by Wagner.

The examiner maintains that the interpretation of Helms column 2, lines 35-39 is

reasonable so therefore it teaches .

The applicant argues on pages 14-15 with regard to Wagner "Wagner does not

teach providing an ambient light signal " The examiner does not understand this line of

argument because the primary base reference teaches this and therefor the secondary

reference does not necessarily have to also teach it.

In response to applicant's arguments against the references individually, one

cannot show nonobviousness by attacking references individually where the rejections

are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ

871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The examiner references the detailed rejection above.

Conclusion

8.   Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Paul Bell whose telephone number is (703) 306-3019.

If attempts to reach the examiner by telephone are unsuccessful the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377 can help with any inquiry of a general nature or relating to the status of this application.

Any response to this action should be mailed to:

> Commissioner of Patents and Trademarks
> Washington, D.C. 20231

Or Faxed to: (703) 872-9306

Or Hand-delivered to: Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Paul Bell
Art unit 2675
May 31, 2004

CHANH NGUYEN
PRIMARY EXAMINER